

E-016/GR-92-378 ORDER ACCEPTING FILING AND GRANTING VARIANCES

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm
Tom Burton
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Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Petition of
Northwestern Wisconsin Electric
Company for Authority to
Increase its Rates for Electric
Service in the State of
Minnesota

ISSUE DATE: June 30, 1992

DOCKET NO. E-016/GR-92-378

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GRANTING VARIANCES

PROCEDURAL HISTORY

I. Proceedings to Date

On May 15, 1992, Northwestern Wisconsin Electric Company (NWECC or the Company) filed a general rate case requesting a 15.39 percent increase.

On May 18, 1992, the Commission issued a Notice asking interested parties to submit comments on whether the Commission should accept the Company's filing, grant the requested variances, and set the matter for contested case hearing.

On May 29, 1992, the Minnesota Department of Public Service (the Department) filed the only comments received on this matter.

On June 4, 1992, NWECC supplemented its filing by submitting a Conservation Improvement Plan (CIP).

On June 16, 1992, NWECC mailed notices of the proposed rate increase to individual customers, counties, and municipalities. The notices included a statement of the customer's right to request a contested case hearing and gave June 26, 1992 as the deadline for commenting on the proposed increase or to request a hearing.

On June 23, 1992, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

II. The Company's Petition

NWEC, an electric utility with approximately \$7 million revenue and 11,600 customers in Wisconsin, serves 95 customers in Minnesota and receives \$33,000 from that service.

NWEC requested that the Commission approve rates for its Minnesota customers that the Wisconsin Public Service Commission (Wisconsin PSC) recently approved for its Wisconsin customers. In support of its request, NWEC initially filed a cover letter, four schedules showing Minnesota jurisdictional sales, revenue and rate base figures, the record from the Wisconsin PSC rate case proceeding, including Company and Wisconsin PSC Staff testimony and supporting exhibits, the final PSC Orders and the approved rate schedules. Subsequently, the Company supplemented its filing with a Conservation Improvement Plan (CIP).

II. Adequacy of the Company's Rate Case Filing

A. Statutory Filing Requirements

The only item required by statute that was missing from the Company's initial filing was the Conservation Improvement Plan (CIP) required by Minn. Stat. § 216B.48 (1990). This requirement is not subject to waiver by the Commission because it is statutory. On June 4, 1992, the Company subsequently corrected this deficiency by filing a proposed CIP. Without commenting upon the merits of the Company's CIP proposal, the Commission finds that it is satisfactory for purposes of accepting the Company's rate case filing.

B. Rule Filing Requirements

The Company's filing failed to include several items required by Commission rate case filing rules. The Company identified most of those requirements in its filing and requested that the Commission vary the requirements of seven filing rules in this case and accept the filing. The company argued that it would be appropriate to grant these variances in light of the relative small size of its Minnesota service and the recent approval of the requested rates by the Wisconsin PSC following a full-scale rate case.

Specifically, the Company requested that the Commission vary the following rate case filing rules: Minn. Rules, part 7825.3500, item C which requires the filing to contain a description and

statement explaining the purpose of the requested change in rates; Minn. Rules, part 7825.3900 which requires the filing of a jurisdictional financial summary schedule; Minn. Rules, part 7825.4000 which requires the filing of rate base schedules; Minn. Rules, part 7825.4100 which describes the operating income schedules required by Minn. Rules, 7825.3800; Minn. Rules, part 7825.4200 which describes the rate of return and cost of capital schedules required by Minn. Rules, part 7825.3800; Minn. Rule, part 7825.4400, item A which describes the annual report required by Minn. Rules, part 7825.3800; Minn. Rule, part 7825.4400, item B which requires a schedule showing the development of the gross revenue conversion factor.

In addition, the Commission finds that since the Company's filing did not identify the procedures and underlying rationale for cost and revenue allocations in its cost of service study as required by Minn. Rule, part 7825.4300, item C, the filing may be accepted only if the Commission granted the Company a variance from that rule as well.

C. Grant of Required Variances

The Commission's rule on granting variances from its rules states that to grant a variance, the Commission must find that

- 1) enforcing the rule would impose an excessive burden upon the applicant or others affected by the rule;
- 2) granting the variance would not adversely affect the public interest; and
- 3) granting the variance would not conflict with the standards imposed by law. Minn. Rules, part 7830.4400.

In this case the Commission finds that enforcement of these filing rules would impose an excessive burden upon the Company. The finding of excess is based not simply on the fact that the Company has so few Minnesota customers. More important is the fact that the recent full review and approval of the Company's rate increase by the Wisconsin PSC substantially reduces the Commission's need to conduct a full-scale review of the Company's request.

The public interest requirement of the variance rule is also satisfied. The purpose of the rate case filing rules is to provide the Commission with an adequate amount of information at the beginning of the 10 month decision-making period established by statute to proceed expeditiously with an investigation into the appropriateness of the requested change in rates. Following the Wisconsin PSC's evaluation and findings, the information contained in the Company's filing provides the Commission with an adequate basis for proceeding in this matter.

Finally, granting these variances would not conflict with any standards imposed by law.

Accordingly, the Commission will grant the Company a variance from these filing requirements.

D. Acceptance of Rate Case Filing

The Commission finds that the Company's rate case filing meets the regulatory filing requirements, as varied in this Order, and, with the addition of the CIP proposal, the Company's filing meets the applicable statutory filing requirements. Accordingly, the filing is deemed complete and will be accepted as of the date of that CIP filing, June 4, 1992.

III. Suspension of Rates

Under Minn. Stat. § 216B.16, subd. 3 (1990) the rates proposed by the Company become effective 60 days from the filing. The Commission will accept the Company's representation that it will not implement new rates until the Commission issues an Order setting rates. Adoption of the Company's representation will have same effect as suspending the Company's proposed rates.

IV. Interim Rates

If a utility requests an interim rate increase pending the Commission's final determination, Minn. Stat. § 216B.16, subd. 3 (1990) requires the Commission to order an interim rate schedule into effect not later than 60 days after the filing date.

In this case, however, the Company has not requested interim rates. Instead, the Company specified that it will continue to charge the rates currently in effect (i.e. those approved by the Commission in the Company's 1987 rate case) until the Commission issues a final Order in this matter setting new rates. In these circumstances, no interim rates need be set.

V. Referral for Contested Case Hearing

Upon petition by a required number of affected customers or upon the Commission's finding that not all the significant issues raised in this rate case can be resolved to its satisfaction, the Commission is required to refer the matter to the Office of Administrative Hearings for contested case proceedings. Minn. Stat. § 216B.16, subd 2 (b) (1990).

The required number of customers have not requested such treatment and the Commission is not convinced that all the

significant issues cannot be resolved to its satisfaction. The Commission, therefore, will not refer the matter for a contested case proceeding in this Order.

ORDER

1. Northwestern Wisconsin Electric Company (NWECC or the Company) is granted variances from eight filing rules in connection with this matter: Minn. Rules, part 7825.3500, item C; Minn. Rules, part 7825.3900; Minn. Rules, part 7825.4000; Minn. Rules, part 7825.4100; Minn. Rules, part 7825.4200; Minn. Rule, part 7825.4400, item A; Minn. Rule, part 7825.4400, item B; and Minn. Rule, part 7825.4300, item C.
2. The Company's rate case is accepted for filing as of June 4, 1992.
3. The Company's proposal not to implement new rates until the Commission issues an Order setting rates is accepted.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

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